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SCENERA RESEARCH, LLC 111 Corning Road Suite 220 Cary, NC 27518			EXAMINER VAUGHN, GREGORY J	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/728,785
Filing Date: November 30, 2000
Appellant(s): ROBINSON ET AL.

Stephen J. Tytran of Scenera Research, LLC
For Appellant

EXAMINER'S ANSWER

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This is in response to the amended appeal brief filed 6/27/2007 appealing from the Office action mailed 12/23/2005.

(1) Real Party in Interest

A statement identifying by name the real party of interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The examiner has applied the following references in the below stated rejections:

- Pavley, US Patent 6,445,460, filed 4/13/1999, patented 9/3/2002
- Gao, US Patent 6,581,094, filed 11/2/1999, patented 6/17/2003
- Manolis et al., US Patent 6,583,799, filed 11/29/1999, patented 6/24/2003
(hereinafter Manolis).

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 7, 8-10, 16, and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Pavley, US Patent 6,445,460 (filed 4/13/1999, patented 9/3/2002).

Regarding independent claim 1, Pavley discloses a digital imaging system that employs an image capture device and a server on a network: Pavley recites: *"With the present invention, file attributes are used in order to synchronize file handling in a photosystem environment, i.e., between a digital camera 110 and an externally connected computer system, as represented in FIG. 6. For purposes of illustration, camera 110 is shown connected with a desktop computer system 1100 and an Internet web server computer processing system 1102"* (column 5, lines 46-52). Pavley discloses each image file having one or more image tags in Figure 4 at reference sign 825. Pavley discloses the image tags having a predefined function in Figure 5 at reference signs 710, 715, 720 and 735 (shown as *"Capture Information Tags"*, *"User Information Tags"*, *"Product Tags"* etc.).

Pavley discloses storing a key ID and a definition of the one or more tags. Pavley recites: *"FIG. 4 illustrates a diagram of one embodiment for an image file 835. Image file 835 includes a header 805, image data 810, a scrennail 815, a thumbnail 820, and image tags 825. Header 805 preferably includes information that identifies and describes the various contents of image file 835. Image data 810 contains actual captured image data"* (column 4, lines 44-50).

Pavley discloses transferring the image file with tags (as described above in reference to Figure 4) for storage to an Internet server in Figure 6 at reference sign 1102.

Pavley discloses the tag definitions having a second functionality. Pavley recites: *"With a common operating environment, an image file 1104 that includes file attribute designations in accordance with the present invention is successfully and automatically handled within the photosystem environment based on established rule sets"* (column 5, lines 56-60) (compare "second function" to "rule sets").

Pavley discloses altering the function of the image tags. Pavley provides an example where altering the function of a an archive tag for the purpose of saving time. Pavley recites: *"For example, when the priority is to save time, the system 1100 determines whether an archive attribute is set for an image file. When not set, the system 1100 appropriately performs the action of copying the file from the camera 110 and marking the file with the archive attribute"* (column 6, lines 35-41).

Pavley discloses in Figure 7, at reference sign 1208 a plurality of image files (shown as "Another Image File?"). Pavley further recites: *"FIG. 7 illustrates a flow diagram of an overall process for automatic image file handling in accordance with the present invention. The process initiates with selection of a desired rule set (step 1200). The rule set may be set up and selected in the camera 110, the desktop system 1100, and/or the server system 1102. A system's file manager program supports application of a rule document on a list of files by opening each image file and examining the file attribute(s) associated with an image file (step 1202)"* (column 6, lines 24-33).

Regarding dependent claim 7, Pavley discloses extracting the tags from the image file when the image files are received at the server. Pavley recites: *"By way of further example, a goal may be established to conserve time by automatically having image transfer occur between the camera 110 and a computer system, e.g., system 1100, in the photosystem environment. A rule set establishes that image files not marked as archived are copied from the camera 110 to the system 1100 upon connection and are then marked as archived with an archive file attribute by the system 1100"* (column 6, lines 10-17), (compare *"when image files are received"* to *"the camera to the system upon connection"*).

Regarding dependent claim 8, Pavley discloses extracting the tag from the image file when the image file is viewed. Pavley recites: *"A hidden file attribute provides a privacy feature that allows certain image files to be hidden and requires a password to access the file"* (column 5, lines 36-39), (compare *"when image files are viewed"* to *"access the file"*).

Regarding dependent claims 9 and 24, the claims are rejected for fully incorporating the deficiencies of the base claims.

Regarding independent claims 10 and 16, the claims are directed toward a computer readable medium or a system for the method of claim 1, and are rejected using the same rationale.

Regarding dependent claim 22, the claim is directed toward a system for the method of claim 7, and is rejected using the same rationale.

Regarding dependent claim 23, the claim is directed toward a system for the method of claim 8, and is rejected using the same rationale.

Claims 2, 3, 11, 12, 17, 18 and 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavley in view of Gao, US Patent 6,581,094, filed 11/2/1999, patented 6/17/2003.

Regarding dependent claims 2 and 3, Pavley discloses an image capture device that stores digital images in image files, where the image files contain an image identifier and image data stored in tags, the image files received over a network and assessable by a user as described above. Pavley fails to disclose receiving tag definitions over a network (claim 2) that enable the development of a camera application that uses the custom tags and a key ID (claim 3). Gao teaches the development of custom camera applications based upon device specific criteria. Gao recites: *"the following code defines profile attributes 124. The code defines attributes for a number of devices, including a printer, projector, camera"* (column 7, lines 57-58, emphasis added). Gao also recites: *"The memory 48 also stores device vendor applications 54. The device vendor applications 54 allow a vendor of digital devices to supply updates and enhancements to digital devices within the networked environment 20"* (column 2, line 67 to column 3, line 3). Gao defines the control of vendor applications as: *"The memory 72 also stores Universal Device Descriptor (UDD) files 76. The UDD files 76 may include a UDD file for the server 60 and UDD files for other*

digital devices within the networked environment 20" (column 3, lines 29-32) and *"In a preferred embodiment of the invention, the UDD files are implemented as XML documents"* (column 4, lines 13-15) where the XML uses: *"Document Type Definition (DTD) is a set of syntax rules for tags. It specifies what tags can be used"* (column 3, lines 27-28).

Therefore, it would have been obvious, to one of ordinary skill in the art, at the time the invention was made, to combine the image files with custom tags of Pavley with the device specific application development of Gao in order to provide *"an input link from the digital camera's UDD, which has an output link to the storage device"* (Gao, column 15, lines 35-36).

Regarding dependent claims 11 and 12, the claims are directed toward a computer readable medium for the method of claims 2 and 3 respectively, and are rejected using the same rationale.

Regarding dependent claims 17 and 18, the claims are directed toward a system for the method of claims 2 and 3 respectively, and are rejected using the same rationale.

Regarding independent claim 25, the claim is directed substantially the same subject matter as claims 1-3 combined, and is rejected using the same rationale.

Regarding dependent claim 26, Pavley recites: *"In addition to image tags 825, in accordance with the present invention, file attribute designations*

1000 are provided for image files" (column 5, lines 25-27) where Pavley defines file attribute designations as *"file attributes that act as metadata for a file. A minimum subset of file tags referred to herein as file attribute designations for digital image files includes a read-only file attribute, a hidden file attribute, an archive file attribute, and a system file attribute"* (column 5, lines 31-35).

Regarding dependent claims 27 and 28, Pavley discloses user tags in Figure 5 at reference sign 715, and custom tags at reference signs 720 and 735.

Regarding dependent claim 29, Pavley recites: *"For example, capture information tags 710 may indicate focus setting, aperture setting, and other relevant information that may be used for effectively processing or analyzing the corresponding image data"* (column 4, line 66 to column 5 line 3).

Claims 4-6, 13-15, 19-21 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavley in view of Gao, and in further view of Manolis et al., US Patent 6,583,799, filed 11/29/1999, patented 6/24/2003 (hereinafter Manolis).

Regarding dependent claims 4 and 5, Pavley and Gao disclose a method for customizing image file tags in camera applications as described above. Pavley and Gao fail to disclose the use of a database to store image data, or allowing a user network access to the image files. Manolis teaches the use of a database for image file storage and access. Manolis discloses in Figure 7, at reference sign 520, a "DB Server" as an element of the "Image Archive

Subsystem". Manolis also recites: "After the user has entered the required information, the user presses the Next button 220 to arrive at the next screen--an image selection window 222 as shown in FIGS. 2B and 2C" (column 2, lines 32-35).

Therefore, it would have been obvious, to one of ordinary skill in the art, at the time the invention was made, to combine the camera application with image files having customized tags of Pavley and Gao with the database storage and user access as taught by Manolis in order to provide "software that allows a user to perform tasks such as communicating with other computer users, accessing various computer resources, and viewing, creating, or otherwise manipulating electronic content---that is, any combination of text, images" (Manolis, column 1, lines 26-30).

Regarding dependent claims 13 and 14, the claims are directed toward a computer readable medium for the method of claims 4 and 5 respectively, and are rejected using the same rationale.

Regarding dependent claims 19 and 20, the claims are directed toward a system for the method of claims 4 and 5 respectively, and are rejected using the same rationale.

Regarding dependent claims 30 and 31, the claims contain substantially the same subject matter as claims 4 and 5 respectively, and are rejected using the same rationale.

Regarding dependent claims 6, 15, 21 and 32, the claims are rejected for fully incorporating the deficiencies of the base claims.

(10) Response to Argument

Appellant argues that Pavley fails to teach or suggest the claimed feature of *"using a definition stored on a server corresponding to the key ID to extract data from one or more custom tags"* (emphasis added by appellant - page 14, last paragraph, to page 15, third paragraph, of the Brief filed 6/27/2007). As noted by appellant in this section of the brief, Pavley discloses automatic image file handling for a digital image capture device (see Pavley, column 1, lines 38-50, and column 5, lines 45-60). Pavley discloses an image file structure in Figure 4, where the image file includes *"Image Tags"*. Pavley discloses the *"Image Tags"* structure in Figure 5, where parts of the image tags are file attributes. Pavley discloses in Figure 7 a flow diagram of automatic image file handling, where a *"rule set"* is selected (reference sign 1200), and the image is processed according to the rule set (reference sign 1206). Pavley discloses the rule set having an ID in Column 6, line 48, where the *"Rule ID"* is shown. Pavley provides an example of the automatic image file handling system with a specific example where a specific rule related to an archiving process is described (column 6, lines 35-63). In this example, *"the system determines whether an archive attribute is set for an image file"* (Pavley, column 6, lines 35-37). Pavley discloses extracting the data related to the stored definition in Figure 7 at reference sign 1202 – shown as *"Examine File Attribute of Image File"*.

Appellant also argues that Pavley fails to teach or suggest a *"key ID and corresponding definition stored on a server for altering a first pre-defined function of an image tag"* (page 15, fourth paragraph, to page 17, third paragraph of the Brief filed 6/27/2007). Pavley discloses the automatic image handling system in Figure 6 as including a camera (reference sign 110) and a server (reference sign 1102). Pavley describes figure 6 at column 5, lines 46-60 where the automatic image handling system uses file attributes in order to *"synchronize file handling in a photosystem environment, i.e., between a digital computer 110 and an externally connected computer system"* (column 5, lines 47-49). Pavley discloses the rules being stored in the camera or the server (column 6, lines 27-29). Pavley discloses the rule having an ID in column 6, line 48). Pavley discloses the rule having a first and second use. Pavley recites: *"in accordance with the present invention, file attribute designations 1000 are provided for image files. File attribute designations, while unused with digital image files, are well known and used in most computer systems. For example, DOS, WINDOWS, WINDOWS NT, UNIX, and MAC operating systems employ file attributes that act as metadata for a file"* (column 5, lines 25-31). Hence Pavley discloses an unused image file attribute that is altered, to be used for a secondary purpose.

Appellant further argues that Pavley fails to teach or suggest that: *"each custom tag have a second pre-defined function that is different from the corresponding first pre-defined function associated with the tag"* (page 17, last paragraph, to page 20, second paragraph of the Brief filed 6/27/2007). Pavley discloses the use of file attributes as image tags. Pavley recites: *"A minimum subset of file tags referred to herein as file*

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attribute designations for digital image files includes a read-only file attribute, a hidden file attribute, an archive file attribute, and a system file attribute" (column 5, lines 31-35).

Pavley discloses using the file attributes with rule sets. Pavley recites: "*An image file 1104 that includes file attribute designations in accordance with the present invention is successfully and automatically handled within the photosystem environment based on established rule sets*" (column 5, lines 57-60). Pavley discloses multiple rule sets.

Pavley recites: "*For the purpose of the present invention, rule sets refer to user-defined routines for achieving a particular goal for an image file*" (column 5, lines 61-63).

Pavley's disclosure provides an example of the use of a rule set with an example directed toward archiving files (column 5, line 61 to column 6, line 63). Pavley discloses pseudo code in column 6, lines 47-56, where the rule ID is associated with a rule definition, said definition is used to automatically recognize the image file and use the rule definition to extract data from the image file. Pavley's disclosure is exemplified in the archiving process presented.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Gregory J. Vaughn/

Patent Examiner


Art Unit 2178

September 25, 2007


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